

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MICHAEL POWERS,	:	
	:	NO. 1:02-CV-00605
Plaintiff,	:	
	:	
	:	
v.	:	OPINION AND ORDER
	:	
	:	
HAMILTON COUNTY PUBLIC	:	
DEFENDER COMMISSION,	:	
<u>et al.</u> ,	:	
	:	
Defendants.	:	

This matter is before the Court on Defendants' Motion to Stay Proceedings Pending Resolution of Petition for Permission to Appeal Class Certification (doc. 37) and Plaintiff's Memorandum in Opposition (doc. 38).

Defendants indicate in their Motion they have filed a petition under Fed. R. Civ. P. 23(f) in the Sixth Circuit Court of Appeals requesting permission to appeal this Court's certification of a class in this matter (doc. 37). Defendants therefore move to stay remaining proceedings until the Rule 23(f) petition is decided (Id.).

Plaintiff opposes Defendants' Motion, arguing it would engender delay and require the Court to vacate the December 6, 2005 trial date (doc. 38). Plaintiff further argues the Sixth Circuit rarely grants Rule 23(f) motions, so a stay and vacating of dates

would be in vain (Id.). Finally, Plaintiff argues his pending motions for summary judgment as to liability and damages should dispose of this case, such that no stay is necessary (Id.).

Having reviewed this matter, the Court finds Defendants' Motion well-taken. Although Fed. R. Civ. P 23(f) indicates that a petition to appeal a class certification order does not stay proceedings in the district court unless this court should so order, the Court finds a stay appropriate in this instance. To proceed with this matter could constitute a waste of judicial resources, when any further action by the Court would be in relation to the certified class, which the Court of Appeals could reject and decertify.

Accordingly, the Court GRANTS Defendants' Motion to Stay Proceedings Pending Resolution of Petition for Permission to Appeal Class Certification (doc. 37), STAYS this matter pending the outcome of Defendants' Rule 23(f) petition, and VACATES the August 24, 2005 scheduling Order (doc. 35), which scheduled the trial date in this matter for December 6, 2005.

SO ORDERED.

Dated: October 20, 2005

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge